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SENATE

{ REPORT
106-193 }

REAUTHORIZING THE COASTAL WETLANDS PLANNING, PROTECTION AND RESTORATION ACT

OCTOBER 18, 1999.—Ordered to be printed

Mr. CHAFEE, from the Committee on Environment and Public
Works, submitted the following

REPORT

[to accompany S. 1119]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 1119), to amend the Act of August 9, 1950, to continue funding of the Coastal Wetlands Planning, Protection and Restoration Act, having considered the same, reports favorably thereon and recommends that the bill do pass.

GENERAL STATEMENT AND BACKGROUND

Wetlands are some of the most unique and important natural areas on earth. They improve water quality, minimize flood damage and shoreline erosion, and provide food and habitat for fish and wildlife. As water moves through wetlands, vegetation removes nutrients, reduces sediment loads, and processes chemical and organic waste. Wetlands can also serve as natural basins, storing excess flood water and protecting adjacent and downstream property from flood damage. Wetlands also serve as important habitat for migrating waterfowl, and coastal wetlands play a critical role in the Nation's fisheries. An estimated 90 percent of the fisheries harvested from the Gulf of Mexico spend part of their life cycle in Louisiana wetlands and estuaries.

Despite the current value attached to wetlands, previous government policy encouraged the destruction and alteration of wetlands.

The National Research Council of the National Academy of Sciences estimates that 117,000,000 acres of wetlands, or half of the original total, have been lost in the contiguous United States since colonial times. California, Ohio, Iowa, Missouri, Indiana, Illinois, and Kentucky have lost more than 80 percent of their original wetlands. The White House Council on Environmental Quality reports that while wetlands losses have dropped dramatically, between 1985 and 1995 the nation still lost approximately 117,000 acres of wetlands annually.

The problem of wetlands loss is particularly acute in coastal Louisiana. The majority of wetlands loss is due to the natural process of subsidence (sinking of wetlands into the ocean), rather than human development. Over the past 7000 years, a cycle of wetlands creation and loss has occurred in Louisiana. Each time the Mississippi river changed course on its route to the Gulf of Mexico, the river built a new delta of sediment. These deltas later became wetlands. When the delta wetland areas no longer receive sediment from the Mississippi, the wetlands slowly break up and subside as the soft sediments compact. Until 1900, natural subsidence was balanced by new sediment deposits and wetlands creation. Human activities have upset this balance. Upstream reservoirs, bank protection measures and agricultural conservation measures throughout the Mississippi river and its tributaries have significantly reduced the amount of sediment carried to the Gulf. The current high rate of wetlands loss is a result of the great decrease in sediment deposition while subsidence has remained constant.

According to testimony presented by Dr. Len Bahr, coastal advisor to the Governor of Louisiana, 40 percent of all coastal wetlands in the lower 48 states are located in Louisiana and roughly 80 percent of losses to the Nation's coastal wetlands is occurring within Louisiana. The loss of Louisiana coastal wetlands threatens coastal infrastructure, harms wildlife populations and increases the vulnerability of Louisiana cities to devastating hurricane damage.

In response to the threat of wetlands loss, particularly the loss of coastal wetlands, Congress passed the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) in 1990. The Act reserves a percentage of the revenues from the Aquatic Resources Trust Fund (ARTF) for wetlands conservation programs. The Aquatic Resources Trust Fund (otherwise known as the Wallop-Breaux Trust Fund) was created in 1984. The Fund is divided into a Sport Fish Restoration Account and the Boat Safety Account. Currently, 18 percent of the revenues collected for the Sport Fish Restoration Account are used for wetlands conservation programs. The 18 percent allocation is divided among three programs; 70 percent goes to the Louisiana Coastal Wetlands Conservation Program, 15 percent goes to the National Coastal Wetlands Conservation grants program, and 15 percent goes to the North American Wetlands Conservation Act grants program. In 1997 and 1998, funding for all three wetlands programs was roughly \$65 million per year, with around \$45 million going to Louisiana and \$20 million being split between the Coastal Wetlands and North American wetlands programs. These revenues are expected to continue through 2003.

One of the objectives of CWPPRA is to restore rapidly eroding coastal wetlands in Louisiana. CWPPRA established a joint Federal-State task force in Louisiana to develop a comprehensive restoration plan. Since enactment of CWPPRA, approximately 100 restoration projects have been initiated. The cost share for projects is 85 percent Federal, 15 percent non-Federal. Louisiana has also developed a conservation plan with the goal of achieving no net loss of wetlands in the coastal area of Louisiana as a result of development activities. Under CWPPRA, the Federal government has provided \$313 million in planning and construction grants, with the State contributing \$45 million in matching funds. The total State investment in coastal wetlands conservation has been \$193 million.

The North American Wetlands Conservation Act (NAWCA) was first passed by Congress in 1989. NAWCA was reauthorized by the Environment Committee in 1998 as part of the Wetlands and Wildlife Enhancement Act (PL 105-312). NAWCA encourages public and private partnerships to conserve wetlands for waterfowl, migratory birds, and other species that depend on that habitat. Any individual or organization may apply for grants. NAWCA creates a special council to review projects, as well as a special fund to support approved projects. The Federal to non-Federal cost share is 50-50. While NAWCA provides funding for projects outside of the United States, monies from the Aquatic Resources Trust Fund must be used for projects in the coastal United States. NAWCA has funded approximately 280 projects in 46 states with more than 800 partners.

CWPPRA also established the National Coastal Wetlands Program. Similar to NAWCA, the National Coastal Wetlands Program focuses on funding estuary conservation and restoration activities. Unlike the NAWCA, only coastal States (states that border the Pacific, Atlantic, Gulf of Mexico and the Great Lakes) and territories can apply for funding. The Fish and Wildlife Service provides matching grants for acquisition, restoration, management or enhancement of coastal wetlands. The Federal-State cost share increases to 75 percent-25 percent if the State has a trust fund or dedicated recurring source of monies to acquire coastal wetlands or other natural areas. As of 1999, over \$62.6 million in Federal grant monies have been awarded to 24 coastal States and 1 U.S. territory.

LEGISLATIVE HISTORY

On May 25, 1999, Senator Breaux introduced a bill (S. 1119) to continue funding of the Coastal Wetlands Planning, Protection and Restoration Act. On Wednesday, September 29, 1999, the Committee on Environment and Public Works held a business meeting to consider S. 1119. The bill was favorably reported out of committee by voice vote.

HEARINGS

On July 22, 1999, the Environment and Public Works Committee held a hearing on coastal legislation in Washington, D.C.. The hearing focused on six bills: S. 835, the Estuary Habitat Restoration Partnership Act of 1999; S. 878 a bill to amend the National

Estuary Program; S. 492, the Chesapeake Bay Restoration Act of 1999; S. 1119, a bill to reauthorize the Coastal Wetlands Planning, Protection and Restoration Act; S. 522, the Beaches Environmental Assessment, Closure, and Health Act of 1999; and H.R. 999, the Beaches Environmental Awareness, Cleanup, and Health Act of 1999. Testimony was provided by the Honorable Robert G. Torricelli, New Jersey; the Honorable John B. Breaux, Louisiana; the Honorable Paul Sarbanes, Maryland; the Honorable J. Charles Fox, Assistant Administrator for Water, U.S. Environmental Protection Agency; the Honorable Michael L. Davis, Deputy Assistant Secretary for Civil Works, Department of the Army; Mr. Martin L. Pagliughi, Mayor, Avalon, New Jersey; Mr. Ted Danson, President, the American Oceans Campaign; Ms. Linda Shead, Executive Director, the Galveston Bay Foundation; Mr. Richard Ribb, Director, Narragansett Bay Estuary Program, Rhode Island Department of Environmental Management; Mr. Michael Hirshfield, Senior Vice President, Chesapeake Bay Foundation; Dr. Len Bahr, Coastal Advisor to the Governor, State of Louisiana.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes evaluation of the regulatory impact of the reported bill. The reported bill will have no regulatory impact. This bill will not have any adverse impacts on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that S. 1119 would impose no Federal intergovernmental unfunded mandates on State, local or tribal governments. All of its governmental directives are imposed on Federal agencies. The bill does not directly impose any private sector mandates.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 14, 1999.

Hon. JOHN H. CHAFEE, *Chairman,*
Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1119, a bill to amend the Act of August 9, 1950, to continue funding of the Coastal Wetlands Planning, Protection and Restoration Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,

DAN L. CRIPPEN.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1119, A bill to amend the Act of August 9, 1950, to continue funding of the Coastal Wetlands Planning, Protection and Restoration Act, as ordered reported by the Senate Committee on Environment and Public Works on September 29, 1999

S. 1119 would reauthorize through fiscal year 2009 programs carried out under the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA). CBO estimates that enacting this bill would have no impact on the federal budget because these programs have permanent authority to spend amounts in the Aquatic Resources Trust Fund (ARTF). The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 1119 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Wetlands Conservative Projects carried out under the CWPPRA are funded with a portion of the excise taxes deposited into the ARTF. Specifically, these programs receive annual direct spending authority equal to the previous year's excise taxes on fuels used in small engines or 18 percent of that year's deposits to the sport fish restoration account of the ARTF, whichever is greater. In 1998, the Transportation Equity Act of the 21st Century reauthorized the collection of small engine fuels taxes through fiscal year 2005. CBO estimates that direct spending authority for these programs will range between \$60 million and \$70 million annually over the next five years. If the excise tax is not reauthorized after 2005, spending from the ARTF would decline significantly.

The CBO staff contact is Deborah Reis, who can be reached at 226–2860. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

UNITED STATES CODE—TITLE 16—CONSERVATION

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**CHAPTER 10B—FISH RESTORATION AND MANAGEMENT
PROJECTS**

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Sec. 777c. Division of annual appropriations

(a) Initial distribution

The Secretary of the Interior shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 777b of this title as provided in the Coastal Wetlands Planning, Protection, [1] and Restoration Act (title III, Public Law 101-646) (16 U.S.C. 3951 et seq.). Notwithstanding the provisions of section 777b of this title, such sums shall remain available to carry out such Act through fiscal year **[1999]** 2009.

(b) Use of balance after distribution

Of the balance of each such annual appropriation remaining after making the distribution under subsection (a) of this section, an amount equal to \$10,000,000 for fiscal year 1993, \$15,000,000 for each of fiscal years 1994 and 1995, and \$20,000,000 for each of fiscal years 1996, and 1997 shall be used as follows:

(1) one-half shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46; and

(2) one-half of amounts made available under this subsection in a fiscal year shall be available for two years for obligation under section 5604(c) of the Clean Vessel Act of 1992. The Secretary of the Interior may make grants for qualified projects in an amount up to the amount available under this paragraph. Amounts unobligated by the Secretary of the Interior after two years shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46. In fiscal year 1998, an amount equal to \$20,000,000 of the balance remaining after the distribution under subsection (a) of this section shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46.

(c) Funds available for expenses of investigations and administration

Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a) and (b) of this section, respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this chapter and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available until the expiration of the next succeeding fiscal year.

(d) Apportionment among States

The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c) of this section, respectively, shall apportion the remainder of each such annual appropriation among the several States in the following manner: 40

per centum in the ratio which the area of each State including coastal and Great Lakes waters (as determined by the Secretary of the Interior) bears to the total area of all the States, and 60 per centum in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the number of such persons in all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than 1 per centum nor more than 5 per centum of the total amount apportioned. Where the apportionment to any State under this section is less than \$4,500 annually, the Secretary of the Interior may allocate not more than \$4,500 of said appropriation to said State to carry out the purposes of this chapter when said State certifies to the Secretary of the Interior that it has set aside not less than \$1,500 from its fish-and-game funds or has made, through its legislature, an appropriation in this amount of said purposes.

(e) Unallocated funds

So much of any sum not allocated under the provisions of this section for any fiscal year is hereby authorized to be made available for expenditure to carry out the purposes of this chapter until the close of the succeeding fiscal year, and if unexpended or unobligated at the end of such year, such sum is hereby authorized to be made available for expenditure by the Secretary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation. The term fiscal year as used in this section shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of persons holding licenses to fish shall be a State's fiscal or license year.

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